

**MINUTES**  
**ENFORCEMENT COMMITTEE MEETING**  
**TEXAS BOARD OF PROFESSIONAL ENGINEERS**  
**1917 IH-35 SOUTH, BOARD ROOM, AUSTIN, TX**  
**May 24, 2012 – 9:00 a.m.**

**CALL TO ORDER.** Acting Committee Chair Edward L. Summers, Ph.D., called the Enforcement Committee meeting to order at 9:34 a.m., on May 24, 2012, at the Texas Board of Professional Engineers, (TBPE) 1917 South Interstate 35, Austin, Texas. (Note: All votes are unanimous unless otherwise indicated.)

**1. Roll call and welcome visitors.**

Edward L. Summers, Ph.D.	Acting Chair
James “Jim” Greer, P.E.	Member
Elvira Reyna	Member
Daniel Wong, Ph.D., P.E.	Alternate

A quorum was present. Veena Mohan, Assistant Attorney General, was present to provide legal counsel. Mr. Edmundo Gonzalez, Jr., P.E., Emeritus Board Member, was present.

The following staff members were present:

Lance Kinney, P.E.	Executive Director
Priscilla Pipho, MPA	Deputy Executive Director
C.W. Clark, P.E.	Director of Compliance & Enforcement
Clif Bond	Supervising Investigator
Charles Pennington, P.E.	Staff Engineer
Dewey Helmcamp, III, JD	Staff Attorney
Dorothy Gonzales	Executive Assistant

**Visitors.** Peyton McKnight, American Council of Engineering Companies (ACEC)–Texas; Terry Sams, Texas Department of Transportation (TxDOT); Terry Bilderback, Texas Society of Professional Engineers (TSPE); Mathew Ryan, Allisonworth and Porter.

**2. Public comment.** None.

**3. Discuss and possibly approve the February 15, 2012, Enforcement Minutes.**

It was MOVED/SECONDED (Reyna/Wong) to approve the February 15, 2012, Enforcement Minutes as submitted. A vote was taken, and the MOTION PASSED.

**4. Discuss and possibly act on the following rule adoption.**

- §139.35 (b) Sanctions and Penalties—changes are to correct a double negative under the windstorm sanctions.

Mr. Clark reported that this rule was posted in the Texas Register. The Board did not receive any comments on the recommended changes.

It was MOVED/SECONDED (Wong/Reyna) to recommend to the Board at its Regular Quarterly meeting on May 24, 2012, to adopt §139.35 (b) Sanctions and Penalties as submitted. A vote was taken and the MOTION PASSED.

**5. Discuss and possibly act on the following rule proposal change(s) in accordance with the Texas Board of Professional Engineers’ 4 year Rule Review.**

Mr. Helmcamp told the Committee that these recommended rule changes are in order with the 4 year rule review. Mr. Helmcamp suggested that Chapters 137 and 139 be recommended for re-adoption. Mr. Clark will review the recommended rule proposal changes within these rules. He reported that the proposed changes will be posted in the Texas Register for comment. Mr. Kinney asked the Committee members to adopt the Chapters first, then review the proposed changes.

It was MOVED/SECONDED (Wong/Reyna) to recommend to the Board at its Regular Quarterly meeting on May 24, 2012, to re-adopt Chapters 137 and 139. A vote was taken and the MOTION PASSED.

- **Chapter 137: Compliance and Professionalism.**

- **§137.17 Continuing Education Program.**

Mr. Clark commented that the current language of §137.17 (k) reads, “license holder must submit certification that CEP requirements have been satisfied”; the proposed change reads, “license holder must certify that CEP requirements have been met.” The second proposed change is (n) (4) to clarify that it does not matter whether or not the license holder gets paid for providing engineering services, s/he must meet the inactive status requirements—deleting “no longer receiving any remuneration from” and adding the word “not”.

- **Chapter 139: Enforcement.**

- **§139.13 Filing a Complaint.** Relates to filing a complaint. The proposed change corrects the Board’s new URL and physical address.
  - **§139.35 Sanctions and Penalties.** Relates to formatting of table headings, and includes sanctions that have been enforced by rule but were not in the table. Staff requests the Committee recommend approval to the full Board regarding the following proposed changes:

- To make the table uniform; and make all headings in the table capital letters.
    - To clarify the failure to follow TDI Windstorm inspection procedures, adding TDI’s codes regarding Windstorm design criteria.
    - To change, “the offer or practice of engineering while license is expired or inactive, removes the “g” reference and adds: “a” and “h” which is more appropriate with the violation.
    - The new rule proposal which reflects current practice and is already enforced by statute but was not listed in the table, is under “Failure to provide plans, and/or specs to TDLR/RAS for assessment within 20 days of issuance.”
    - Heading for table in “C”, make all headings in capital letters.

It was MOVED/SECONDED (Greer/Wong) to recommend to the Board at its Regular Quarterly Board meeting on May 24, 2012, to approve the proposed changes to §§137.17, 139.13, 139.37 to post in Texas Register for comments as presented by staff. A vote was taken, and the MOTION PASSED.

6. **Discuss and provide guidance to staff on the following rule suggestions.**

Mr. Helmcamp commented that staff has identified four other rules that may possibly benefit from rule changes. Staff is looking for guidance from the Committee for staff to move forward with proposed changes and to present them at the next scheduled Enforcement meeting for recommendation to the full Board to post in Texas Register.

- **§137.7 License Expiration and Renewal.** Proposed rule change would be that licensed engineers that have an outstanding administrative penalty or other term or condition that has not been fulfilled, may not renew their license.
- **§137.31 Seal Specifications.** Proposed rule change would be about the specification of seals stating that the specification should be of the design illustrated and not larger than 2 inches, and regardless of size, the engineer’s name and signature must be legible.
- **§137.37 Sealing Misconduct.** Proposed rule change would be to clarify the language regarding sealing misconduct. The language would read “a person not licensed by the Board may not use, caused to be used, affix or cause to be affixed or in any other manner regardless of the names attached or in any way depicted an engineering seal or representation of an engineering seal on engineering work.”
- **§137.65 Action in Another Jurisdiction.** The proposed rule change would be to address engineering projects that to cross state lines; for example, oil and gas projects as permitted by the recent statutory change. The proposed change would addresses engineers licensed outside of Texas to come to Texas and do oil and gas resource work without being licensed in the Texas, as per the statute. It will allow the Board, and clarify the Board’s ability to, discipline a licensee in another state who may be practicing in Texas pursuant to this exemption.

The Committee unanimously agreed with staff recommendations, and directed staff to present the proposed rule changes at the next scheduled Enforcement Committee meeting for recommendation to the Board to post in the Texas Register.

**7. Director Of Compliance & Enforcement Report.**

- **C & E Process Improvements Update.**

Mr. Clark described changes in the Compliance & Enforcement processes; some completed and others in progress. The investigators are now starting to use six (6) part folders for enforcement cases and informal conference information is now available electronically. Online complaint filing process, electronic case tracking, as well as document archival process using Laserfische is in development. Legal review of all enforcement letter templates, and finalization at administrative level have been completed. An outreach update was also provided.

**8. Discuss, consider, and possibly act on decision resulting from SOAH case and Final Order for the following cases:**

- **D-32904; James H. Vance, P.E.**

Mr. Vance failed to respond to a CEP audit. There was a SOAH hearing and the Final Board Order is included. Staff asks for the Committee's recommendation to the Board to approve. The Administrative Law Judge (ALJ) ruled in favor of the Board.

It was MOVED/SECONDED (Reyna/Greer) to recommend to the Board at its Regular Quarterly Board meeting on May 24, 2012, to approve the Final Board Order for Mr. James H. Vance, P.E. as submitted. A vote was taken and the MOTION PASSED.

**9. Staff Attorney Reports.**

- SOAH Cases
- Suits Against the Board
- Status of Court Cases (Injunctions)

Mr. Helmcamp commented that the staff attorney reports were included for the Committee's review, and he would be glad to answer any questions. He added that the SOAH cases back log has been resolved. Dr. Summers commended Mr. Helmcamp for all his efforts.

**10. Issues for consideration and schedule next meeting.**

**ADJOURN.**

It was MOVED/SECONDED (Reyna/Wong) to adjourn the meeting at 10:10 am. A vote was taken, and the MOTION PASSED.

Date committee approved the minutes as submitted:

August 16, 2012

Date Board accepted minutes:

August 16, 2012